

REGULAR CITY COUNCIL MEETING
JUNE 10, 1996

PRESENT

Don Dafoe	Mayor
Gayle Bunker	Council Member
Robert Dekker	Council Member
Robert Droubay	Council Member
Dale Roper	Council Member
Glen Swalberg	Council Member

ABSENT

None

OTHERS PRESENT

Dorothy Jeffery	City Recorder
Richard Waddingham	City Attorney
Neil Forster	Public Works Director
Greg Schafer	City Employee
Judy Baker	City Treasurer
Connie Hansen & Boy Scout	City Residents
Ruth Hansen	City Resident
Louise Lyman	City Resident

Mayor Dafoe called the meeting to order at 7:00 p.m. Dorothy Jeffery, City Recorder, acted as secretary. Mayor Dafoe stated that notice of the meeting, time, place and agenda was posted at the principal office of the governing body located at 76 North 200 West and was provided to the Millard County Chronicle/Progress, the local radio stations, and to each member of the City Council by personal delivery two days prior to the meeting.

Council Member Glen Swalberg offered an invocation, after which Mayor Dafoe led the Council in the Pledge of Allegiance.

MINUTES

The proposed minutes of a Regular City Council Meeting held April 22, 1996 were presented for consideration and approval. The

Council reviewed the minutes briefly, after which Council Member Dale Roper MOVED that the minutes be approved as corrected. The motion was SECONDED by Council Member Robert Dekker. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

The proposed minutes of a Special City Council Meeting held May 2, 1996 were presented for consideration and approval. The Council reviewed the minutes briefly, after which Council Member Robert Dekker MOVED that the minutes be approved as presented. The motion was SECONDED by Council Member Glen Swalberg. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

The proposed minutes of a Special City Council Meeting held May 20, 1996 were presented for consideration and approval. The Council reviewed the minutes briefly, after which Council Member Gayle Bunker MOVED that the minutes be approved as corrected. The motion was SECONDED by Council Member Dale Roper. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

ACCOUNTS PAYABLE

The Council reviewed the accounts payable, a list of which had been given to them two days prior to the meeting. Following a brief discussion of the accounts payable, Council Member Dale Roper MOVED that the accounts payable be approved for payment as listed in the amount of \$117,158.34. The motion was SECONDED by Council Member Gayle Bunker. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

UNFINISHED BUSINESS

ATTORNEY RICHARD WADDINGHAM: AMENDMENT TO BUSINESS LICENSE ORDINANCE

No Council action taken.

NEW BUSINESS

RAYETTE JONES: DISCUSSION OF CITY SUPPORT FOR SIDEWALK INSTALLATION
AT 294 SOUTH 300 WEST

Mrs. Jones was not in attendance at the meeting.

Council Member Gayle Bunker MOVED to table discussion of this item until the next City Council meeting. The motion was SECONDED by Council Member Glen Swalberg. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

COUNCILMAN ROBERT DEKKER: DISCUSSION OF 250 EAST STREET AT 274
SOUTH

Council Member Robert Dekker advised the Council that due to an unforeseen problem, Rusty Dutson was unable to attend the meeting. Councilman Dekker stated that he would discuss the matter.

Council Member Dekker stated that the Dutsons have, on several occasions, approached the City Council regarding paving their street. We are currently in the process of paving 300 South Street and Dutsons have contacted him again. At one time, they were told that, if they would install curb and gutter, the City would pave the street. They are willing to install curb and gutter, if necessary, in order to have the street paved. Council Member Dekker questioned whether or not they need to install curb and gutter and questioned whether we could go ahead with the paving inasmuch as we are already paving in the area. Mayor Dafoe stated that it has not been our policy to require curb and gutter before paving a street. Council Member Bunker stated that the Council had wanted curb and gutter on this street prior to paving this street to prevent water run off and seepage from deteriorating the pavement. Both Dutsons and their neighbor have agreed to install curb and gutter if that will help get the street paved. Council Member Dekker felt that the Council has put them off longer than necessary and the street should be paved. He requested that the Council advise them whether or not they need the curb and gutter and then get the paving completed - with or without curb and gutter. The neighbors on the east side of the street have not been approached regarding curb and gutter. Public Works Director Neil Forster stated that drainage could be accomplished with a borrow ditch or a water way. A twenty-four foot strip of asphalt could be

installed down the alley and leave room for curb and gutter at a later date, if necessary.

Council Member Dale Roper MOVED to pave the street in front of the two homes being discussed. The motion was followed by more discussion.

Council Member Bunker expressed concern that the Council was not being consistent in its policy regarding participation of curb, gutter, and sidewalk by affected property owners, when Delta City paves a road contiguous to the property owner. He feels that the Council should not take any action until the policy is in place. Council Member Dekker felt that the Council should take action on Dutsons and not put them off any longer. Council Member Roper felt that, if the Council does not, at present, have a policy in place to participate in curb, gutter, and sidewalk improvements on a 50/50 basis, the Council should tell Dutsons that the City would pave the street if they would put in a water way. Council Member Dekker felt that this would satisfy the Dutsons. Mayor Dafoe felt that the City should asphalt the street now and not require curb and gutter on either side of the street. There was extensive discussion regarding what the policy should be and that the City Council should be consistent in their policy. Attorney Waddingham cautioned that the ordinance should be written so that the same policy applies to everyone in every instance. Currently, some people are paying the entire cost themselves, some are getting 50% participation from the City and, in some instances, the City has paid the entire cost.

Mayor Dafoe made reference to the motion which had previously been made. Council Member Dale Roper MOVED that the previous motion be amended to state that if Dutsons wanted to install curb and gutter, or a water way, the road should be paved to the curb and gutter or water way, and if curb and gutter is installed, it needs to be on the north side of Melanie Schena's property, and, if they do not want curb and gutter, there will only be a 24' wide asphalt strip, with 50% City participation in the cost. The motion was SECONDED by Council Member Gayle Bunker. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

Council Member Gayle Bunker requested clarification on the curb and gutter. It was clarified that the curb and gutter will be to the North side of Melanie Schena's property, or none of the block. If Ms. Schena does not agree to pay her 50%, the other property owners have the option of paying her 50% or not installing the curb and

gutter on their property. The 50% participation will include cost of site preparation and curb and gutter installation.

Council Member Robert Dekker stated that he would convey the decision of the City Council to the Dutsons.

MAYOR DON DAFOE: RESOLUTION ADOPTING THE DELTA CITY 1996-1997
FISCAL YEAR BUDGET

Mayor Dafoe stated that a public hearing to discuss the Delta City 1996-1997 Fiscal Year Budget was held June 10, 1996 at 6:45 p.m.. There were two members of the public in attendance, with no opinion voiced.

Following brief discussion, Council Member Gayle Bunker MOVED to approve Resolution No. 96-242 adopting the final budget for the City of Delta for fiscal year 1996-1997. The motion was SECONDED by Council Member Dale Roper. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a roll call vote. The voting was as follows:

Glen Swalberg	Yes
Robert Droubay	Yes
Gayle Bunker	Yes
Dale Roper	Yes
Robert Dekker	Yes

MITCHELL MYERS: PROPOSED SIDEWALK FROM DELTA SOUTH ELEMENTARY TO
MAIN STREET.

Mr. Myers was not in attendance at the meeting. No Council action was taken.

Council Member Robert Droubay MOVED to table this item until the next City Council meeting. The motion was SECONDED by Council Member Robert Dekker. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

COUNCIL MEMBER GLEN SWALBERG: DELTA CITY BEAUTIFICATION ORDINANCE
ENFORCEMENT.

Council Member Glen Swalberg stated that he wanted to further

present this item to the Council and distribute a copy of a revised proposed outline for a beautification committee. This item was discussed at the City Council meeting held on May 20, 1996 and has been revised to include the following:

"There are certain properties, and vacant lots located in some undeveloped areas of Delta City, and in the perimeters of the outside limits, that do contain sage and rabbit brush. These lots would be better to remain as they are in order to keep dust or blowing loose dirt in place. To clean them would actually create a health hazard. However, the main lots to be considered would be those in the normal residential lived in areas, where weeds, trash and debris are the dominant landscape of the lot. They should also be told that the City Council will make the final decision as to what approach will be taken to get the lot cleaned up. The City Council will do their best to follow the recommendations of the Property Cleanup Committee, but the City Council will make the final decisions.

The balance of the proposed outline is unchanged from the previous proposal.

The proposed letter to residents has been revised. Paragraph three is changed to read:

If it is impossible for you to clean up your property, and you notify us, we have some excellent volunteers, and youth church groups who may be able to help at a very reasonable cost. Also if you have bulky or heavy items that need to be hauled off, and you request help, we may be able to use city or private equipment to participate in this action if, at our discretion, it is practical. If you would like this service, you must notify Delta City within fifteen (15) days of receiving this letter.

Paragraph four was revised to meet Attorney Waddingham's suggestions:

If you have any question or concern with the legality of this request, and/or the ordinance statute, you may request a hearing with the Delta City Council in writing

within the original twenty (20) day time period. A date will be set for the hearing, upon which you will receive notification.

These are the changes discussed at the previous City Council meeting. There was discussion regarding the use and cost of equipment and the existing ordinance. It was decided that Attorney Waddingham would rewrite the letter to comply with the existing ordinance. The item will be put on the agenda for the next City Council meeting.

Council Member Swalberg requested that Council Members review the proposed names for the clean up committee prior to the next meeting.

MAYOR DON DAFOE: RESOLUTION ON CURB AND GUTTER PARTICIPATION BY DELTA CITY.

Attorney Waddingham stated that he has not prepared a new resolution and requested the Council discuss what terms should be included in the resolution. He advised that municipal ordinances require that any one who constructs a sidewalk in the City must meet City specifications and the City must oversee the construction. In fact, if anyone wants to excavate an old sidewalk, under our current ordinances, a permit would need to be obtained from the City prior to the excavation. A property owner can construct a sidewalk as long as it is in compliance with Delta City specifications and construction standards. He has found nothing in State law prohibiting a municipality from participating in sidewalk construction, but the municipality is responsible to oversee the project. If there is a defect in the sidewalk construction, or a dangerous/hazardous conditions exists with the sidewalk, the City is responsible to correct the problem and maintain the sidewalk. If the City has been advised that there is a hazardous or dangerous conditions with a sidewalk, the City should correct it. If the property owner creates the problem and the City is not notified, the property owner can be held liable as well. The only exception to impose liability on a property owner is the property owner's failure to keep the sidewalk free of snow, ice, debris, weeds, etc., created by natural conditions. this requirement is imposed by Delta City ordinances.

Attorney Waddingham stated that, in reading Utah court cases, Utah has interpreted the sidewalk to be a part and parcel of the street; i.e., part of the public right of way. He has some additional

research to do, but at this point he believes that generally, when the City has notice of a dangerous or defective condition with a sidewalk, it is the City's responsibility to correct the problem.

There was lengthy discussion regarding maintenance of sidewalks and whether property owners could be required to maintain and repair sidewalks.

Following discussion, Council Member Gayle Bunker MOVED to table this item and instruct the City Attorney to research this matter, including whether a property owner could be liable for failure to maintain a sidewalk. He further requested that this item be placed on the agenda for the next City Council meeting. The motion was SECONDED by Council Member Glen Swalberg. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

MAYOR DON DAFOE: PROPOSED ZONE CHANGE FOR WEST DELTA AREA AND SET PUBLIC HEARING DATE.

This zone change affects property located in West Delta. It was referred to the Planning & Zoning Commission. The Council did not have a recommendation from Planning & Zoning in the packet, but the Mayor understood from the Zoning Officer that they have responded favorably to the request and would like to have a public hearing set. Zoning Officer Neil Forster confirmed the request for a public hearing. Council Member Gayle Bunker stated that the area includes property located within the boundaries of 350 to 500 West and 200 to 500 North, also including property located within the boundaries of 450 to 500 West and 50 to 400 South.

Attorney Waddingham stated that he wanted to make certain that the notices on zone changes are posted properly. Utah law requires that in addition to publication, notice must be posted in at least three (3) public places in the jurisdiction and public notice of the hearing must be published in a newspaper of general circulation. Publication must take place at least fourteen (14) days prior to the public hearing.

Following discussion, Council Member Gayle Bunker MOVED to schedule a Public Hearing on the zone change, from Industrial Development to R4 property located within the boundaries of 350 to 500 West and 200 to 500 North; also including property located within the


boundaries of 450 to 500 West and 50 to 400 South, on July 1, 1996 at 6:45 p.m. The motion was SECONDED by Council Member Robert Droubay. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

OTHER BUSINESS:

Council Member Dale Roper discussed the preliminary plans which he has received for construction of a new Fire Department meeting room. The building will be constructed just south of the existing building and will be a separate building. There was discussion regarding replacing the sidewalk, curb and gutter in the area. This item will be put in the budget for next year. There was also discussion regarding air conditioning for the building.

Public Works Director Neil Forster reported that Dennis Leavitt has resigned his position with the City effective June 13, 1996. An advertisement has been delivered to the local newspaper for the position and it has been listed with Job Service. The closing date for application will be June 24, 1996, with interviews to be conducted about June 28 or 29, 1996.

Mayor Dafoe asked if there were any comments, questions or items to be discussed. There being none, Council Member Gayle Bunker MOVED to adjourn. The motion was SECONDED by Council Member Robert Droubay. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously. Mayor Dafoe declared the meeting adjourned at 9:05 p.m.


DON DAFOE, Mayor


DOROTHY JEFFERY
Delta City Recorder